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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,393	11/02/2000	Jeffrey W. Dlott	2266.002US1	7987

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EXAMINER
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SHAAWAT, MUSSA A

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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06/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/705,393	<b>Applicant(s)</b> DLOTT ET AL.	
	<b>Examiner</b> Mussa A. Shaawat	<b>Art Unit</b> 3627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/14/2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 37-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 37-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This action is in response to amendment filed on May 14, 2007. Claims 16-36 have been cancelled. Claims 37-42 have been newly added. Claims 1-15, and 37-42 are pending examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-15, and 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari et al. US Patent No. (5,478,990) in view of Wendte et al. US Patent No. (6,119,531) and Lindsey et al. US Patent No. (5,285,383) (official notice). Montanari et al. disclose receiving at a management information system a request for product information, the request including a product identifier (col. 17 lines 146 et seq. discloses P/R-TN identification used to get information from database); accessing a product record, identified using the agricultural product identifier, at the management information system, the agricultural product record including agricultural product data collected along a chain of custody of the agricultural product (P-TN will permit id of all information relative to purchase fabrication, feeding of the livestock); and communicating the product data responsive to the request (col. 17, lines 54,55- consumer is contacted and given a detailed report of the product's origin and processing e.g. metrics. Montanari et al. is read as disclosing a request made while the agricultural

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product is in the chain of custody because the contact to the consumer e.g. the response to a request is at a slaughter location read as within the chain of custody given that the carcass is still accounted for by the P-TN tag at that point.) Applicant argues that the consumer could contact the retailer and the retailer could contact the fabricator... to obtain the P-TN number to identify the animal and its associated data ... [requiring] the consumer first has to receive the product...". However, it is the Examiners' position that inherent/obvious at the point in time before the consumer (user) takes possession of the item but when retailer still holds possession of the item (retail ready product), the information about the product identified by the L-PIN/P-TN is readily available to the retailer. Notwithstanding Official Notice is taken of the practice of the intermediate handler of a product e.g. the distributor and or retailer having request access to information about the product chain of title and information appurtenant to the product collected along the chain. See. Lindsey et al., e.g., database 25 is accessible by the broker throughout the chain of custody the motivation for applying this feature to Montanari et al is to insure the integrity of the product being purchased.

However, the Montanari et al. patent does not disclose tracking agricultural products nor does it disclose the real time generating of a report to a customer.

However, Wendte et al do disclose a real time agricultural sampling and reporting system col. 8 line 42. It would be obvious to modify the system of Wendte et al. to include the real time feature the motivation for this is that the system of Montanari et al. already inputs data into the computer database see col. 11 lines 18-20, and to do so in

real time would add a higher degree of integrity to the data being received by the customer.

Re claims 3, 4, 10: Wendte et al. disclose at col. 8 lines 30-33 disclose communications computer network including a wireless data link e.g. a wireless network. Official notice is taken with respect to the remaining elements i.e., Internet, WAN, LAN and cellular, which are deemed old and notorious channels of communicating data. The motivation for using the wireless network of Wendte et al. is the current way of communicating data.

Re claim 5: See Montanari et al. col. 10, lines 19-27 for pre-production, production, environmental, processing, distribution information.

Re claims 6/7/8: see Montanari et al. col. 12 lines 34-44, for disclosure of accreditation of organic raised meat..

Re claim 9: the record in Montanari et al. created by the conformation information col. 12, lines 6 et seq. is read as markup language document including the agricultural product data.

Re claim 11: Montanari et al. col. 11 lines 57-59 discloses a telephonic device.

Re claim 12. the A-TN in Montanari et al. is inputted as of the product identifier into the communications device phone lines.

Re claims 13-15: see Montanari et al. see col. 9 lines 29-36 for various machine readable codes used in Montanari et al. e.g., A-TN and O-TN which are deemed the equivalent of a UPC and are bar codes see Fig. 1.

*Re: Claim 37, all the limitations of claim 37 are similar to the limitations of claim 1 except for the newly added limitations which recite as follows: comparing the agriculture product data against a compliance requirement, (see Montanari Col. 1 lines 46-61).*

*Re: Claims 38-41, Montanari teaches comparative rating of the metric is based on a comparison of the metric with a certification criterion, an environment impact, a social impact, and an economic impact, (col.1 lines 46-61, tracing back process steps so that concerns such as health, and safety regulations are met).*

*Re: Claim 42, the limitations of claim 42 are similar to the limitations of claim 37 therefore it is rejected based on the same rationale.*

#### ***Response to Arguments***

4. Applicant's arguments have been fully considered but are not persuasive. In particular applicants argues: A) Wendte does not disclose "communicating the report to the user responsive to the request for real-time agriculture product information"; B) Applicant traverse the assertion of official notice in the previous action dated 11/15/2006.

5. In response to A), the examiner respectfully disagrees. Wendte et al, discloses a real-time agriculture sampling and reporting system, the data is shown on a GIS or yield map, the GIS software can then produce a map that graphically displays areas of high and low values for the particular parameters of the grain that were determined by the analysis, (see col.8 lines 40-50). Therefore Wendte et al still meets the scope of the limitation as currently claimed.

In response to B) the examiner respectfully disagrees. Examiner notes that Applicant's traversal is inadequate. MPEP 2144.03(c ) requires that the Applicant the subsequent action adequately traverse the statement that certain subject matter is old and well known art. ***It further notes that an adequate traversal must state why it is believed that the subject matter is not old and well known.*** In view of the inadequate traversal, and in light of the requirements of 2144.03(c ), the examiner notes that the well known in the art statements of the previous Office Action are considered to be admitted prior art.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

**Contact Information**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mussa A. Shaawat whose telephone number is 571-272-2945. The examiner can normally be reached on Mon-Fri (8am-5: 30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mussa Shaawat  
Patent Examiner  
May 29, 2007

 5/30/07  
F. RYAN ZEENDER  
SUPERVISORY PATENT EXAMINER